

# Chapter I

## Introduction

This report has been prepared under contract with the Michigan Supreme Court, State Court Administrative Office (SCAO) to review the Michigan Child Support Formula.<sup>1</sup> The Formula is presumptively used to set the amount of child support for children whose parents are unmarried, separated, or divorced. With 389,400 single parent households in Michigan (2000 Census), the Formula is an important instrument in reducing child poverty, improving the self sufficiency of single parent households, and generally providing for the economic well-being of children in the State. In addition, fair and equitable guidelines help promote voluntary settlement of legal actions involving child support, thereby reducing the demands on court time and mitigating the adversarial impact of such proceedings.

Federal law [42 USC 667] requires that states must review their guidelines at least once every four years. Related regulations [45 CFR 302.56] require states to conduct an assessment of the most recent economic evidence on child-rearing costs and review case data to ensure that deviations from guidelines are limited. Michigan has been more than diligent at fulfilling this Federal requirement. Michigan has a standing committee, that meets several times a year to review the Formula, and conducts a case file review once every year. Further, Michigan generally updates the income intervals used in its Formula annually.

Nonetheless, the SCAO is interested in taking a more in-depth look at the Michigan Formula. The Formula is based on economic estimates of child-rearing expenditures developed in 1984 using 1972-73 data. Although this was the best evidence on child-rearing costs available when the Michigan Formula was developed, there are several new studies on child-rearing expenditures based on more recent data. The major goal of this review is to determine how the Michigan Formula fares relative to current economic estimates of child-rearing costs. In addition, other Formula provisions are examined to determine whether they are consistent with the estimates of child-rearing costs and how they fare relative to the practices of other states. This study also examines the methodology for conducting the annual updating of the Formula and recently developed guidelines models. Finally, this study develops recommendations for improving the Formula.

There are several issues to consider in child support guidelines. The major ones addressed in this study are as follows.

- ✓ The economic estimates of child-rearing costs that support the formula or schedule

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<sup>1</sup>Michigan Friend of the Court Bureau, State Court Administrative Office, *Michigan Child Support Formula Manual 2001*, State of Michigan, Lansing, MI (2001).



- ✓ The model and underlying premises of the guidelines formula or schedule
- ✓ How special factors are considered in the calculation of the amount of the child support order (e.g., low income and the child's health care expenses)
- ✓ Methodology for updating the Formula for changes in the price level

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## **ECONOMIC ESTIMATES OF CHILD-REARING COSTS**

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The Michigan Formula was first adopted in 1986. It was based on the best evidence on child-rearing costs at that time. In fact, it was the same evidence used to develop a prototype schedule for the 1983-87 National Child Support Guidelines Project.<sup>2</sup> The project was convened through the Federal Office of Child Support Enforcement at the request of the U.S. House Ways and Means Committee. The project's purpose was to assist states with developing statewide child support guidelines pursuant a new Federal requirement. As a result, many states based their original child support guidelines on the same economic evidence of child-rearing costs that Michigan does.

The Federal deadline for states to implement statewide child support guidelines was in 1987. Since then, over two-thirds of the states (including Michigan) have updated their child support formula or schedule. Michigan uses the original economic estimates of child-rearing costs but updates the income brackets to which it is applied for inflation. The current Michigan Formula is based on recent price levels (December 2000) applied to estimates of child-rearing costs developed from 1972-73 data. In contrast, most states that have updated their schedules use new estimates of child-rearing costs from a more recent study conducted in 1990. The study was commissioned by the U.S. Department of Health and Human Services with the explicit purpose of providing more information to states on child-rearing costs in order to help with the review and updating of their formulas and schedules. Since 1990, there have been a couple of new studies on child-rearing costs. One was just released last year.

Although Michigan has considered some of these studies in its review of the Formula, it has not extensively compared these estimates of child-rearing costs to the Michigan Formula for a range of incomes. This study will discuss these other economic estimates of child-rearing costs in greater detail in Chapter II and compare them to the existing Michigan Formula for a range of incomes.

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<sup>2</sup> Robert G. Williams, *Development of Guidelines for Child Support Orders, Part II, Final Report*, Report to U.S. Office of Child Support Enforcement, Policy Studies Inc. Denver, CO (March 1987).

## GUIDELINES MODEL

The economic evidence of child-rearing costs is just one factor considered in the development and review of child support guidelines. Guidelines models were also a significant factor in the initial development of statewide child support guidelines. There are several types of child support models currently used to calculate child support obligations. Michigan, like most states, uses the Income Shares model. It was also developed under the 1983-97 National Child Support Guideline Project for usage by states and can be described as follows:

The Income Shares model is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children. A child's portion of such expenditures includes spending for goods used only by the child, such as clothing, and also a share of goods used in common by the family, such as housing, food, household furnishings, and recreation.<sup>3</sup>

The Michigan committee responsible for first developing statewide guidelines pondered many models. After many deliberations, they concluded that the Income Shares model would be the most fair and equitable to Michigan's children and parents.<sup>4</sup>

In all, there are 33 states that base their child support guidelines on the Income Shares model. Michigan is the eighth largest state in the nation. Only five of the Big Eight states use the Income Shares approach. This and other guidelines models used by states are discussed in greater detail in Chapter III.

In the last several years, states have begun to consider two new guidelines models.

- ✓ “Cost Shares Model”<sup>5</sup>, and
- ✓ the model developed by the American Law Institute (ALI).<sup>6</sup>

Neither model has been adopted by a state. Nonetheless, in the interest of conducting a thorough review of its Formula, the SCAO also requested that these models be reviewed in this study. The Cost Shares model originates from a child support guidelines model develop

<sup>3</sup> Robert G. Williams (1987) , p. II-69.

<sup>4</sup> Friend of the Court Bureau, State Court Administrative Office, *Child Support Manual and Schedules, Final Draft*, Submitted to the Friend of the Court Advisory Committee, May 22, 1986.

<sup>5</sup> R. Mark Rogers and Donald J. Bieniewicz, “Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines,” Paper presented to National Association of Forensic Economics, Southern Economic Association Annual Meeting, , Alexandria, Virginia, November 12, 2000.

<sup>6</sup> Grace Ganz Blumberg, “The American Law Institute’s Treatment of Child Support,” *Family Law Quarterly*, vol. 33, no 1. (Spring 1999).



by a noncustodial parents' rights group. The ALI is generally recognized as an organization of legal scholars.

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## **FACTORS CONSIDERED IN GUIDELINES**

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Michigan has one of the most comprehensive guidelines in the nation. It addresses several dozen factors that affect the straight application of the base child support formula. For example, there are formulaic adjustments for child care, the child's medical expenses, extended visitation, shared-parenting time, and others. This report also reviews those factors that would be affected by a change in the estimates of child-rearing costs underlying the schedule or are remarkably different than the treatment of that special factor in other states.

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## **METHOD FOR ANNUALLY UPDATING FORMULA**

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Michigan is unusual in that it updates the income brackets of its Formula for changes in the price level annually. As discussed in greater detail later, only a handful of states engage in any annual updating of their schedules. Further, most of these updates are only a partial update to the factors considered in those state's child support guidelines (e.g., the maximum obligation allowed or the maximum income level for application of the guidelines).

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## **REPORT ORGANIZATION**

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In Chapter II, we discuss the economic estimates of child-rearing costs and show how use of these estimates would impact the amounts of child support orders in the Michigan Formula.

In Chapter III, we look at how the Michigan Formula— particularly the underlying guidelines model and economic estimates— compare to those of neighboring and other large states.

In Chapter IV, we examine new alternative guidelines models, namely, the Cost Shares Model, and the American Law Institute Model.

In Chapter V, we analyze special factors considered under the Michigan Formula and other guidelines issues. They include:

- ✓ differences in child-rearing costs due to age of the child;
- ✓ the child's health-related expenses;
- ✓ low-income parents;
- ✓ high-income cases;
- ✓ adjustments for other minor and stepchildren;
- ✓ adjustments for shared-parenting time; and,
- ✓ the methodology applied annually to update the Formula for changes in the price level.

In Chapter VI, we provide conclusions and recommendations.